

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
Nashville Division**

L.W., by and through her parents and next friends, Samantha Williams and Brian Williams, *et al.*,

Plaintiffs,

and

UNITED STATES OF AMERICA,

Plaintiff-Intervenor,

v.

JONATHAN SKRMETTI, in his official capacity as the Tennessee Attorney General and Reporter, *et al.*,

Defendants.

Civil No. 3:23-cv-00376

Judge Richardson

Judge Newbern

NOTICE OF SUPPLEMENTAL AUTHORITY

Private Plaintiffs respectfully provide notice of *Brandt v. Rutledge*, Case No. 4:21CV00450 JM, 2023 WL 4073727 (E.D. Ark. June 20, 2023). In *Brandt*, the Court issued a permanent injunction against enforcement of a law prohibiting the provision of gender-affirming care to adolescents that is substantially similar to the Health Care Ban, and determined on the merits after a full trial, among other things, that (i) the law is subject to (and cannot survive) heightened scrutiny because it discriminates on the basis of sex and transgender status, (ii) the law is subject to (and cannot survive) strict scrutiny because it interferes with parents’ “fundamental right to seek medical care for their children and, in conjunction with their adolescent child’s consent and their doctor’s recommendation, make a judgment that medical care is necessary,” (iii) one of the *Brandt* Defendants’ experts, Dr. Paul Hruz, whom Defendants also offer in this case, was “testifying more

from a religious doctrinal standpoint rather than that required of experts by *Daubert*,” was “unqualified to offer relevant expert testimony[,] offered unreliable testimony,” and gave “opinions regarding gender-affirming medical care for adolescence with gender dysphoria [that were] grounded in ideology rather than science,” (iv) one of the *Brandt* defendants’ experts, Dr. Stephen Levine, whom Defendants also offer in this case, has himself enabled minor patients with gender dysphoria to access hormone therapy, does not support banning gender affirming medical care for adolescents with gender dysphoria, and admitted under oath at trial that “the psychological impact of cutting off gender-affirming medical care for those currently receiving it [would be] ‘shocking’ and ‘devastating,’” and (v) three of the *Brandt* Plaintiffs’ experts, Dr. Deanna Adkins, Dr. Jack Turban III and Dr. Armand Antommara, whom Private Plaintiffs also offer as experts in this case, “have deep knowledge of the subject matter of their testimony and were fully qualified to provide the opinion testimony they offered.” Private Plaintiffs respectfully submit that the *Brandt* court’s analysis of the law applicable to a substantially similar statute will be helpful in this Court’s analysis of the Health Care Ban.

[The remainder of this page has been left blank intentionally.]

Dated: June 21, 2023

s/ Stella Yarbrough

Stella Yarbrough, BPR No. 033637
Lucas Cameron-Vaughn, BPR No. 036284
Jeff Preptit, BPR No. 038451
ACLU Foundation of Tennessee
P.O. Box 120160
Nashville, TN 37212
Tel.: 615-320-7142
syarbrough@aclu-tn.org
lucas@aclu-tn.org
jpreptit@aclu-tn.org
Attorneys for the Private Plaintiffs

Joshua A. Block*
Chase Strangio*
American Civil Liberties Union Foundation
125 Broad Street, Floor 18
New York, NY 10004
Tel.: 212-549-2593
jblock@aclu.org
cstrangio@aclu.org
Attorneys for the Private Plaintiffs

Sruti J. Swaminathan*
Lambda Legal Defense and Education Fund, Inc.
120 Wall Street, 19th Floor
New York, NY 10005
Tel.: 212-809-8585
sswaminathan@lambdalegal.org
Attorney for the Private Plaintiffs

Tara Borelli*
Lambda Legal Defense and Education Fund, Inc.
1 West Court Square, Ste. 105
Decatur, GA 30030
Tel.: 404-897-1880
tborelli@lambdalegal.org
Attorney for the Private Plaintiffs

**admitted pro hac vice*

Respectfully submitted,

Joseph L. Sorkin*
Dean L. Chapman, Jr.*
Kristen W. Chin*
Theodore James Salwen*
Richard J. D'Amato*
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
Tel.: 212-872-1000
jsorkin@akingump.com
dchapman@akingump.com
kristen.chin@akingump.com
jsalwen@akingump.com
rdamato@akingump.com
Attorneys for the Private Plaintiffs

Elizabeth D. Scott*
Akin Gump Strauss Hauer & Feld LLP
2300 N. Field Street, Suite 1800
Dallas, TX 75201
Tel.: 214-969-2800
edscott@akingump.com
Attorney for the Private Plaintiffs

Christopher J. Gessner*
David Bethea*
Akin Gump Strauss Hauer & Feld LLP
Robert S. Strauss Tower
2001 K Street N.W.
Washington, DC 20006
Tel.: 202-887-4000
cgessner@akingump.com
dbethea@akingump.com
Attorneys for the Private Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2023, the undersigned filed the foregoing Notice of Supplemental Authority via this Court's electronic filing system, which sent notice of such filing to the following counsel of record:

Steven J. Griffin Clark L. Hildabrand Trenton Meriwether Ryan N. Henry Brooke A. Huppenthal Office of the Tennessee Attorney General P.O. Box 20207 Nashville, Tennessee 3720 (615) 741-959 steven.griffin@ag.tn.gov clark.hildabrand@ag.tn.gov trenton.meriwether@ag.tn.gov ryan.henry@ag.tn.gov brooke.huppenthal@ag.tn.gov	Adam K. Mortara Lawfair LLC 40 Burton Hills Blvd., Suite 200 Nashville, TN 37215 (773) 750-7154 mortara@lawfairllc.com
	Cameron T. Norris (BPR# 33467) Consovoy McCarthy PLLC 1600 Wilson Blvd., Suite 700 Arlington, VA 22209 (703) 243-9423 cam@consovoymccarthy.com
Coty Montag Tamica Daniel Gloria Yi Alyssa C. Lareau United States Department of Justice Federal Coordination and Compliance Section 950 Pennsylvania Avenue NW – 4CON Washington, DC 20530 (202) 305-2994 Coty.Montag@usdoj.gov Tamica.Daniel@usdoj.gov Gloria.Yi@usdoj.gov Alyssa.Lareau@usdoj.gov	Ellen Bowden McIntyre Rascoe S. Dean U.S. Attorney's Office (Nashville) 719 Church Street Suite 3300 Nashville, TN 37203 (615) 736-2125 (615) 401-6626 (fax) ellen.bowden2@usdoj.gov rascoe.dean@usdoj.gov

s/ Stella Yarbrough

Stella Yarbrough, BPR No. 033637
ACLU Foundation of Tennessee
P.O. Box 120160
Nashville, TN 37212
Tel.: 615-320-7142
syarbrough@aclu-tn.org